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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,321	03/28/2005	Tatsuo Yamaguchi	059277-0124	5370

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EXAMINER

GREECE, JAMES R

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2873

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/525,321	Applicant(s) YAMAGUCHI ET AL.	
	Examiner JAMES R. GREECE	Art Unit 2873	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 1-9 and 18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/22/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Election/Restrictions

Applicant's election of claims 10-17 in the reply filed on 7/14/2008 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Claims 1-9 and 18 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim.

Drawings

There are no objections to the applicant's drawings at this time.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an

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international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Mihashi et al (USPUB 2001/0035939).

Re claim 10, Mihashi et al teach, a correction data measuring apparatus comprising: an arithmetic part for obtaining an optical characteristic of a subject eye by performing a Zernike analysis on the basis of inclination angles of light fluxes obtained by a first light receiving part, (for details see at least numeral 600) wherein the arithmetic part includes: first means for receiving measurement data indicating a refractive power distribution of the subject eye and obtaining lower order aberrations and higher order aberrations on the basis of the measurement data; (for details see at least numeral 510) second means for judging whether the higher order aberrations have a specified values or higher, (for details see at least paragraph 0060) and third means for changing, in a case where the higher order aberrations have the specified values or higher, lower order aberration quantities corresponding to the higher order aberrations having the specified values or higher and obtaining appropriate correction data suitable for the subject eye (for details see at least paragraphs 0092-0094).

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Re claim 11, Mihashi et al teach, wherein in a case where higher order spherical aberrations or asymmetrical higher order coma aberration quantities have the specified value or higher, in the third means, the arithmetic part changes the lower order aberration quantities corresponding to defocus, and obtains the appropriate correction data suitable for the subject eye (for details see at least paragraphs 0092-0094).

Re claim 12, Mihashi et al teach, wherein in a case where higher order spherical aberration quantities have the specified values or higher, in the third means, the arithmetic part changes the lower order aberration quantities corresponding to astigmatism components, and obtains the appropriate correction data suitable for the subject eye (for details see at least paragraphs 0092-0094).

3. Claims 10-11 and 13-17 are rejected under 35 U.S.C. 102(a,e) as being anticipated by Mihashi et al (USPUB 2003/0189690).

Re claim 10, Mihashi et al teach, a correction data measuring apparatus comprising: an arithmetic part for obtaining an optical characteristic of a subject eye by performing a Zernike analysis on the basis of inclination angles of light fluxes obtained by a first light receiving part, (for details see at least 0086) wherein the arithmetic part includes: first means for receiving measurement data indicating a refractive power distribution of the subject eye and obtaining lower order aberrations and higher order aberrations on the basis of the measurement data; (for details see at least 0004, 0006-0007, 0011) second means for judging whether the higher order aberrations have a specified values or higher, (for details see at least figure 3) and third means

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for changing, in a case where the higher order aberrations have the specified values or higher, lower order aberration quantities corresponding to the higher order aberrations having the specified values or higher and obtaining appropriate correction data suitable for the subject eye (for details see at least paragraph 0147).

Re claim 11, Mihashi et al teach, wherein in a case where higher order spherical aberrations or asymmetrical higher order coma aberration quantities have the specified value or higher, in the third means, the arithmetic part changes the lower order aberration quantities corresponding to defocus, and obtains the appropriate correction data suitable for the subject eye (for details see at least paragraph 0147).

Re claim 13, Mihashi et al teach, wherein in the third means, the arithmetic part changes the lower order aberration quantities to increase a Strehl ratio and obtains the appropriate correction data suitable for the subject eye (for details see at least paragraph 0071).

Re claim 14, Mihashi et al teach, wherein in the third means, the arithmetic part changes the lower order aberration quantities to decrease a phase shift and obtains the appropriate correction data suitable for the subject eye (for details see at least 0147).

Re claim 15, Mihashi et al teach, comprising fourth means for storing the correction data obtained by the arithmetic part in a memory or displaying it on a display part (for details see at least numeral 230)

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Re claim 16, Mihashi et al teach, wherein the fourth means obtains a luminous distribution image of a Landolt's ring or an arbitrary image on the basis of the correction data obtained by the arithmetic part and displays it on the display part (for details see at least paragraph 0071).

Re claim 17, Mihashi et al teach, a first illuminating optical system including a first light source for emitting a light flux of a first wavelength, for providing illumination by condensing a first illuminating light flux from the first light source on a vicinity of a retina of the subject eye; (for details see at least numeral 40) and a first light receiving optical system including a first conversion member for converting a reflected light flux reflected from the retina of the subject eye into at least 17 beams, and a first light receiving part for receiving the plural light fluxes converted by the first conversion member as a first received light signal, for guiding the reflected light flux to the first light receiving part, (for details see at least paragraph 0051) wherein the arithmetic part receives the first received light signal as the measurement data, and performs the Zernike analysis on the basis of the inclinations of the light fluxes obtained by the first light receiving part to obtain the lower order aberrations and the higher order aberrations as the optical characteristic of the subject eye (for details see at least paragraph 0086)

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES R. GREECE whose telephone number is (571)272-3711. The examiner can normally be reached on M-Th 7:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Mack can be reached on 571-272-2333. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. R. G./
James R Greece
Examiner, Art Unit 2873
11/3/2008

/Joseph Martinez/
Primary Examiner, Art Unit 2873